# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/903,458 | 07/10/2001 | Kuriacose Joseph | 2050.001US4 | 9044 |

44367        7590        10/12/2007

SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV
P.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

| EXAMINER |
|---|
| BROWN, RUEBEN M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2623 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/12/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | | Application No. | Applicant(s) |
| :--- | :--- | :--- | :--- |
| ☑ | **Office Action Summary** | 09/903,458 | JOSEPH, ET AL |
| | | **Examiner** | **Art Unit** |
| | | Reuben M. Brown | 2623 |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☑ Responsive to communication(s) filed on <u>*07/10/2001*</u>.

2a) ☐ This action is **FINAL**.  2b) ☑ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☑ Claim(s) *1-9* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☑ Claim(s) *1-9* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☑ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☑ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date __7l6l01; 8l15l01; 9l21l02; 4l30l02__

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

11/25/02; 5/7/02; 6/14/04; 6/22/07

## DETAILED ACTION

*Reissue Applications*

*Oath/Declaration*

1.      The reissue declaration filed with this application is defective because the error

which is relied upon to support the reissue application is not an error upon which a

reissue can be based.  The reissue declaration used in this application is the same

oath/declaration used in the parent application, 09/672,523. See 37 CFR 1.175(a)(1) and

MPEP § 1414.

2.      The reissue declaration filed with this application is defective because it fails to

contain a statement that all errors which are being corrected in this reissue application up

to the time of filing of the declaration arose without any deceptive intention on the part of

the applicant. See 37 CFR 1.175 and MPEP § 1414

        The nature of the defect(s) in the declaration is set forth in the discussion above in

this Office action.

3.      This application is objected to under 37 CFR 1.172(a) as lacking the written

consent of all assignees owning an undivided interest in the patent.  The consent of the

assignee must be in compliance with 37 CFR 1.172.  See  MPEP § 1410.01.


A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is

required in reply to this Office action.


*Claim Rejections - 35 USC § 251*


4.      Claims 1-9 are rejected as being based upon a defective reissue declaration under

35 U.S.C. 251 as set forth above.  See 37 CFR 1.175.


The nature of the defect(s) in the declaration is set forth in the discussion above in

this Office action.

*Claim Rejections - 35 USC § 103*

5.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.      Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Freeman, (U.S. PG-PUB 2004/0261127), in view of Beaudry (U.S. Pat # 5,524,001).

Considering claim 1, the claimed distributed computing system, comprising 'a

source of a data stream providing a series of time division multiplexed packets, ones of

which contain auxiliary data that represent a video program, and others of which

represent a distributed computing program' reads on the control studio 5 in Freeman,

which teaches that a video program and associated data, may be time multiplexed to a

plurality of users, see Para [0031]; [0044-0046] & [0091]. The interactive data codes

discussed in Freeman corresponds with the claimed 'distributed computing application,

see Para [0041].

'wherein the distributed computing application is repetitively transmitted

independent of receiving client computer apparatus during times that the video program

is transmitted', Freeman does not discuss repetitive transmission. Nevertheless Beaudry,

which is directed to cyclical transmission of data, col. 2, lines 50-67; col. 4, lines 1—10;

col. 5,lines 41-65), meets the claimed subject matter. In the Background, (col. 1, lines 5-

col. 5,lines 41-65), meets the claimed subject matter. In the Background, (col. 1, lines 5-25) Beaudry explains that the data is graphical, textual or other multimedia that provides additional information to a TV viewer, and is thus in the same field of endeavor with Freeman. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Freeman with the feature of cyclical transmission as taught by Beaudry, at least for the known purpose of continually providing the data to customer's site which has the advantage of making the data available to the instant customer's site, even if a previous transmission of the data was lost or corrupted.

'a client computer, which includes a packet selector connected to the source for selecting and directing packets containing the auxiliary data representing the video program to a video signal processor and selecting & directing packets containing the associated distributed application to a further processor', reads on the operation of the digital cable box 25, which includes digital demultiplexor 210 that extracts graphics data and/or graphics data from the transmitted data, Para [0088-0091].

'such that the further processing includes a means to assemble the distributed computing application and execute the distributed computing application to form an interactive video program' is met by Freeman, Para [0087-0089]; [0115-0118].

Considering claims 2-3, 'wherein the further processor includes a graphics adapter', reads on the Gen. Lock circuit 235 & Character Generator overlay 240, see Fig. 2 & Para [0089].

Considering claim 4, the claimed subject matter reads on the combination of audio switch 250 & audio memory 252, see Para [0088].

Considering claim 5, the claimed, 'memory for storing program controls and selector code', reads on the RAM/ROM 265, (Fig. 2; Para [0081]; [0119-0120].

Considering claim 6, the claimed distributed computer system, comprising elements that corresponds with subject matter mentioned above in the rejected in claim 1, is likewise rejected. As for the additional features of the first, second and third ones of the packets containing data representing and indicating, executable code; a data module and auxiliary data, respectively. Freeman teaches that information from the studio is transmitted as MPEG data. MPEG necessarily includes packet headers which includes identification, that defines the associated stream, see Para [0111-0112]. The packets that carry timing and control codes [Para 0041], which comprises commands or branch codes for branching between interactive options, etc. corresponds with the claimed, 'executable code'.

The packets that carry video information pertaining to the video signal the user is currently viewing, disclosed in Freeman that accompanies a video stream, see Para [0092], corresponds with the claimed, 'data module'. The packets that carry graphics screens, text and other interactive information, Para [0120] & [0143] corresponds with the claimed, 'auxiliary'. A client computer including a data receiver for selecting packets

of one of the plurality of distributed computing applications, and extracting the

corresponding distributed application, reads on digital box 25, Para [0081-0083].


8.      Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Freeman & Beaudry, further in view of Birch (U.S. Pat # 5,757,416).



        Considering claim 7, the claimed distributed computer system, comprising

elements that corresponds with subject matter mentioned above in the rejected in claims 1

& 6, is likewise rejected. As for the additionally claimed feature of a 'directory module',

Freeman does not explicitly disclose such a feature. Nevertheless, Birch, which is the

same field of transmission of interactive programming to the customer, teaches including

a multiplex structure control (MSC), Audio Control Packet (ACP), Audio Service

Descriptor Packet (ASDP), Video Control Packet (VCP) & Video Service Descriptor

Packet (VSDP); see (Fig. 10-12B; col. 3, lines 41-60; col. 11, lines 58-67 thru col. 12,

lines 1-25 & col. 20, lies 12-671 col. 21; col. 22. The MSC comprises counter data with

respect the packets that follow, as well as End of Audio/Video marker, whereas the ACP,

ASDP, VCP & VSDP, contains information that define and provide link information for

the actual video and/or service packets that are transmitted later. It would have been

obvious for one of ordinary skill in the art at the time the invention was made to modify

Freeman with the feature of directory module/packet, for the desirable benefit of more

specifically defining the transport structure which improves the DEMUX routine in the

receiver, as taught by Birch.

Considering claim 8, the computer system comprises elements that correspond

with subject matter mentioned above in the rejection of claims 6-7, and is likewise

treated.

Considering claim 9, the claimed distributed computer system, comprising

elements that corresponds with subject matter mentioned above in the rejected in claims 1

& 7, is likewise rejected. The claimed 'input terminal for receiving a packet data stream

including packets of video signal time multiplexed with packets of data representing a

distributed computing application' corresponds with subject matter recited in the

rejection of claim 1 & claim 8, and is likewise treated.

'data stream receiver, coupled to the input terminal for receiving the data stream,

providing separate streams of the video signal..', reads on the demod 200 and demux 210,

see Para [0082] and the combination of Birch as discussed above.

As for the, 'read/write memory coupled to system bus coupled between the data

stream receiver and the system bus, for receiving extracted distributed computing

application responsive data and storing in the read/write memory', the claimed subject

matter reads on the RAM/ROM 265 of the cable box 25, (Fig. 2; Fig. 3; Para [001-0082],

[0119]). The claimed 'processor for controlling the data stream', reads on the CPU 260,

(Fig. 2; Fig. 3; Para [0081-0083], [0096]; [0109].

## *Conclusion*

9.      The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.


A)      Wendorf      Teaches mapping a plurality of channels and services/service

types, using a Global Map.


B)      Srivastava      Teaches repetitively transmitted video programming information.

**Any response to this action should be mailed to:**

> Commissioner for Patents
> P.O. Box 1450
> Alexandria, VA 22313-1450
> www.uspto.gov

> **or faxed to:**
> (571) 273-8300, (for formal communications intended for entry)
> **Or:**
> > (571) 273-7290 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

REUBEN M. BROWN
PATENT EXAMINER